

S/L-61
13-06-2023
KOLE

CRR 2078 of 2023

Smt. Debjani Sarkar Dutta
-Vs.-
Dipankar Sarkar & Ors.

Mr. Jayanta Narayan Chatterjee,
Mr. Gourav Banerjee,

... for the petitioner.

Supplementary affidavit filed on behalf of the petitioner be kept with the records.

The petitioner is aggrieved by the judgment and order dated 15.02.2023 passed by the learned Additional Sessions Judge, 10th Court, Alipore, in Criminal Appeal No. 28 of 2022, wherein the husband was directed to pay a sum of Rs. 4000/- each to the wife and the child (aggregating a sum of Rs. 8,000/-) from the date of the impugned order and with retrospective effect from 20.06.2017. While arriving at such finding, the appellate Court surprisingly observed that the monetary relief which was granted by the learned Magistrate was a penalty imposed upon the husband. Such observation of the learned Appellate court is not in consonance with the spirit of the legislation for the purpose of which the provisions of PWDV Act, 2005 was brought into force. Learned Magistrate in all fairness directed a higher quantum of amount to be paid and the same was from the date of filing of the case. I find the order passed by the learned Judicial Magistrate, 7th Court, Alipore, 24 Parganas South to be harmonious and prudent. Accordingly, the amount awarded/modified by the learned appellate court is not interfered with. However, the

amount aggregating to Rs. 8000/- would be paid by the husband to the wife from the date of the filing of the application until and unless the husband is able to show before the learned Magistrate any special reasons for which the same should not be granted.

With the aforesaid observations, CRR No. 2078 of 2023 is disposed of.

Pending application, if any, is consequently disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this court.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Tirthankar Ghosh, J.)